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PER LOCAL RULE 5 THIS
CASE IS ASSIGNED TO
DEPT 50

10 SUPERIOR COURT OF CALIFORNIA, CONTRA COSTA COUNTY
11 UNLIMITED JURISDICTION

12
13 SHELLEY R. ROBINSON; and
14 ELIZAVETA M. HUNSINGER, by and
15 through her Conservator IVAN J.
16 HUNSINGER

No.

C 07 00998

COMPLAINT FOR PERSONAL INJURY
AND DAMAGES

17 Plaintiffs,

18 v.

19 DAIMLERCHRYSLER AG;
20 DAIMLERCHRYSLER MOTORS
21 COMPANY LLC; DAIMLERCHRYSLER
22 CORPORATION; and DOES ONE through
23 FIFTY, inclusive,

24 Defendants.
25 _____/

26 Comes now SHELLEY R. ROBINSON; and ELIZAVETA M. HUNSINGER, by and
through her Conservator IVAN J. HUNSINGER, and complain of defendants, and each of them
as follows:

FACTUAL ALLEGATIONS

1. Prior to the issuance of the summons in this action, on February 14, 2006, the above-entitled Court, by its order regularly made, entered, appointed, and issued, Letters of Conservatorship, in case number P05-01241, naming IVAN J. HUNSINGER as Conservator of the person and estate of plaintiff ELIZAVETA M. HUNSINGER.
2. The true names or capacities, whether individual, corporate, associate or otherwise, of the defendants sued herein as DOES, are unknown to plaintiffs, who therefore sue said defendants by such fictitious names, pursuant to Section 474 of the Code of Civil Procedure. Plaintiffs are informed and believe, and thereon allege, that each of said defendants designated by such fictitious names is responsible and legally obligated to plaintiffs in contract, in tort, or by statute, for the events and happenings herein referred to, and for the injuries and damages legally caused to plaintiffs, all as hereinafter alleged. Plaintiffs will therefore pray leave to amend this complaint to insert herein the true names and capacities of said defendants when the same have been ascertained, or upon proof thereof at trial.
3. Plaintiffs are informed and believe, and thereon allege, that at all times herein mentioned, each of the defendants named herein, including each defendant sued herein under a fictitious name, was the duly authorized agent, servant, and/or employee of each and every other defendant with respect to the events and transactions herein alleged, and in acting or omitting to act with respect thereto as hereinafter alleged, was within the course, scope and authority of such agency, service, and/or employment, and conducting himself, herself, or itself pursuant to the consent, permission, authorization, and/or ratification of and by each and every other defendant, and further that, each and every defendant, as

1 aforesaid, when acting as a principal, was negligent in the selection, hiring, and/or
2 supervision of each and every other defendant as an agent, servant, employee and/or
3 independent contractor. Additionally, plaintiffs are informed and believe, and thereon
4 allege, that at all times material hereto, certain of said defendants owned, controlled, were
5 the alter egos of, or successors in interest to the assets and liabilities of, certain other
6 businesses, or the corporate owners of said other businesses. As such, each of said
7 defendants is liable and responsible to plaintiffs for the acts and/or omissions of said
8 other businesses, as hereinafter alleged.

10 4. Plaintiffs are informed and believe, and thereon allege, that defendant
11 DAIMLERCHRYSLER AG was and now is a corporation, organized and existing under
12 the laws of a country other than the United States. Plaintiffs are further informed and
13 believe, and thereon allege that said defendant is engaged in the business of the design,
14 manufacture, distribution and sale of motor vehicles for use by members of the general
15 public for purposes of business, pleasure and recreation, and that said defendant does
16 now, and has for some time, engaged in this business with the knowledge and the intent
17 that a substantial number of its products will be distributed to, and purchased and/or used
18 within the State of California by large numbers of California citizens, including many
19 who reside in Contra Costa County, thereby purposefully availing itself of the privilege of
20 conducting business activities in California, and the benefits and protection of California
21 laws.

22 5. Plaintiffs are informed and believe, and thereon allege, that defendant
23 DAIMLERCHRYSLER MOTORS COMPANY LLC was and now is a limited
24 partnership or limited liability company, organized and existing under the laws of the
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1 State of Delaware, but qualified to do business, and doing business, in the State of
2 California, in various counties thereof, including Contra Costa County.

3 6. Plaintiffs are informed and believe, and thereon allege, that defendant
4 DAIMLERCHRYSLER CORPORATION; was and now is a corporation, organized and
5 existing under the laws of the State of Delaware, but qualified to do business, and doing
6 business, in the State of California, in various counties thereof including Contra Costa
7 County.
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9 7. Plaintiffs are informed and believe, and thereon allege, that at all times herein mentioned,
10 defendants, DAIMLERCHRYSLER AG; DAIMLERCHRYSLER MOTORS
11 COMPANY LLC; DAIMLERCHRYSLER CORPORATION; and DOES ONE through
12 THIRTY, and each of them, were engaged in the businesses of designing, manufacturing,
13 remanufacturing, reconditioning, converting, packaging, distributing, testing,
14 constructing, selecting, assembling, installing, fabricating, accessorizing, configuring,
15 analyzing, marketing, recommending, servicing, repairing, maintaining, warranting,
16 merchandising, advertising, promoting, leasing, renting, selling, and instructing and
17 warning concerning the operation, installation, accessory and/or component
18 configuration, care, repair, service, maintenance, and use of certain motor vehicles, the
19 component parts thereof (including but not limited to the passenger compartment, roof,
20 passenger restraints and protective devices, tires, wheels, brakes, steering components,
21 handling components, suspension components, etc.), and the accessories therefor, for use
22 by members of the general public for the purpose, among others, of transporting persons
23 and cargo over the public streets and highways for business and recreational use. As a
24 part of their respective businesses, as aforesaid, defendants, and each of them, did design,
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1 manufacture, remanufacture, recondition, convert, package, accessorize, configure,
2 distribute, test, construct, select, assemble, install, fabricate, analyze, market, recommend,
3 service, repair, maintain, warrant, merchandise, advertise, promote, lease, rent, sell, and
4 instruct and warn concerning the installation, operation, maintenance, repair, accessory
5 and/or component configuration, service, use, and care of, a certain 1998 Jeep Cherokee,
6 California license number 5ESC758, VIN number 1J4FJ68SXWL252744, the component
7 parts thereof (including but not limited to the passenger compartment, roof, passenger
8 restraints and protective devices, tires, wheels, brakes, steering components, handling
9 components, suspension components, etc.), and the accessories therefor, all hereinafter
10 referred to collectively as the "subject products".
11

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13 8. On or about May 25, 2005, plaintiffs SHELLEY R. ROBINSON and ELIZAVETA M.
14 HUNSINGER were passengers in the aforesaid Jeep Cherokee vehicle and subject
15 products, which were being used and driven in a manner and under conditions in which
16 they were intended to be used, and reasonably foreseeable that they would be used, to
17 convey them from their residence in Contra Costa County, California, to the State of
18 Montana. Traveling northbound on Highway 93, 366 feet south of mile post marker 3, in
19 Twin Falls County, Idaho, the aforesaid Jeep Cherokee vehicle was caused to lose
20 control, yaw, oversteer, overturn, rollover, and to sustain various failures and/or
21 inadequate functioning of the components of the vehicle (including but not limited to the
22 roof, roof support structure, glazing, restraints, etc.) which should have protected the
23 occupants from injuries, thereby causing plaintiffs SHELLEY R. ROBINSON and
24 ELIZAVETA M. HUNSINGER to sustain severe and catastrophic injuries.
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FIRST CAUSE OF ACTION

Plaintiff SHELLEY R. ROBINSON complains of defendants DAIMLERCHRYSLER AG; DAIMLERCHRYSLER MOTORS COMPANY LLC; DAIMLERCHRYSLER CORPORATION; and DOES ONE through THIRTY, and each of them, as follows:

FIRST COUNT

(Negligence)

9. Plaintiff refers to the allegations of paragraphs 2 through 8 of this Complaint, and incorporates the same herein by reference as if fully set forth at this point.
10. At all times material hereto, defendants, and each of them, knew, or in the exercise of reasonable care should have known, that said vehicles, their component parts and accessories, including the subject products, were of such a nature that if not properly designed, manufactured, remanufactured, reconditioned, converted, packaged, distributed, tested, constructed, selected, assembled, installed, fabricated, analyzed, marketed, recommended, serviced, repaired, maintained, warranted, merchandised, advertised, promoted, leased, rented, sold, configured, accessorized, and described with appropriate warnings and instructions concerning the proper operation, accessory and/or component configuration, installation, use, care, repair, service, and maintenance, they would be likely to become unreasonably dangerous, defective, unsafe, and unfit for the uses for which and the manner in which they were intended to be used and would foreseeably be used, and would thereby be likely to injure the person or persons by whom, or in the vicinity of whom, they would foreseeably be used; in consequence thereof, at all times material hereto, defendants, and each of them, had a duty to anticipate

1 the foreseeable uses and conditions of use of said vehicles and said subject products,
2 including but not limited to the transportation of both persons and cargo both over the
3 public streets and highways and the potential for involvement of same in accidents and
4 collisions; in further consequence thereof, defendants, and each of them, had a duty to
5 exercise and use reasonable care to properly design, manufacture, remanufacture,
6 recondition, convert, package, distribute, test, construct, select, assemble, install,
7 fabricate, analyze, market, recommend, service, accessorize, configure, maintain, repair,
8 warrant, merchandise, advertise, promote, lease, rent, sell, and provide adequate warning
9 and instruction concerning the proper installation, operation, accessory and/or component
10 configuration, maintenance, service, repair, care, and use of said vehicles, their
11 component parts and accessories, including the subject products, such that the same
12 would be reasonably safe for the uses, the conditions of use, and manner of use for which
13 they were intended to be used and would foreseeably be used.
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16 11. On a date or dates prior to May 25, 2005, the defendants, and each of them, so negligently
17 and carelessly designed, manufactured, remanufactured, reconditioned, converted,
18 packaged, distributed, tested, constructed, selected, assembled, accessorized, configured,
19 installed, fabricated, analyzed, marketed, recommended, serviced, maintained, repaired,
20 warranted, merchandised, advertised, promoted, leased, rented, sold, labeled, or failed to
21 label, provided inadequate, or failed to provide adequate instructions and warnings
22 concerning the proper installation, operation, accessory and/or component configuration,
23 use, care, service, repair and maintenance of, the subject products, the component parts
24 thereof, and the accessories therefor, such that the same were rendered unreasonably
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1 dangerous, defective, unsafe and unfit for the uses for which, the conditions under which,
2 and the manner in which it and they were intended to be used and would foreseeably be
3 used; that furthermore the unreasonably dangerous, defective, unsafe and unfit character
4 of the subject products, the component parts and accessories thereof, and the fact that they
5 were unreasonably dangerous, unsafe, defective, and unfit for the purposes for which, the
6 manner in which, and the conditions under which they were intended to be used when
7 used as recommended by, and/or foreseeable to defendants, and each of them, was known
8 to the defendants, and each of them, or in the exercise of reasonable care should have
9 been discovered and known by defendants, and each of them; that furthermore the
10 unreasonably dangerous, defective, unsafe and unfit character of the subject products and
11 the component parts thereof was not made known to the users thereof, including plaintiff.
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14 12. As a direct and legal result of the negligence and carelessness of the defendants, and each
15 of them, and of the dangerous, defective, unsafe, and unfit character of the subject
16 products, their component parts and accessories, as aforesaid, at the time and place
17 hereinabove set forth, the aforesaid Jeep Cherokee vehicle was caused to lose control,
18 yaw, oversteer, overturn, rollover, and to sustain various failures and/or inadequate
19 functioning of the components of the vehicle (including but not limited to the roof, roof
20 support structure, glazing, restraints, etc.) which should have protected the occupants
21 from injuries, thereby causing plaintiff SHELLEY R. ROBINSON to sustain severe and
22 catastrophic injuries, including but not limited to quadriplegia.
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24 13. As a direct and legal result of the aforesaid, plaintiff SHELLEY R. ROBINSON, was
25 caused to sustain severe and permanent injuries and was injured in her health, strength
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1 and activity, sustaining injury to her body and shock and injury to her nervous system and
2 person, all of which have caused and continue to cause plaintiff great mental, physical
3 and nervous pain and suffering. Plaintiff is informed and believes, and on such
4 information and belief alleges, that said injuries will result in severe permanent disability
5 to plaintiff. By reason of the foregoing, plaintiff has sustained general damages in a sum
6 which is greater than the minimum jurisdiction of this Court.
7

8 14. As a direct and legal result of the aforesaid, and the injuries thereby caused to her, plain-
9 tiff SHELLEY R. ROBINSON has been, and in the future, will be required to obtain the
10 services of physicians and other health care practitioners and to incur other medical
11 expenses. At this time, plaintiff does not know the reasonable value of said services and
12 expenses, but will ask leave to insert the same in her complaint when the same has been
13 ascertained or upon proof thereof at trial.
14

15 15. As a direct and legal result of the aforesaid, and the injuries thereby caused to her, plain-
16 tiff SHELLEY R. ROBINSON has sustained injury and damage to her earnings and/or
17 earning capacity, and plaintiff is informed and believes, and thereon alleges, that she will
18 continue to sustain such damage in the future, all to her further damage in an amount
19 presently unknown, wherefore plaintiff will pray leave to amend this complaint to insert
20 the amount of said damage when the same has been ascertained, or upon proof thereof at
21 trial.
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23 WHEREFORE, plaintiff SHELLEY R. ROBINSON prays judgment against said
24 defendants, and each of them, as hereinafter set forth.
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SECOND COUNT

(Strict Liability)

16. Plaintiff refers to the allegations of paragraphs 2 through 8 of this Complaint, and incorporates the same herein by reference as if fully set forth at this point.

17. At the time of manufacture, and at all times thereafter, including but not limited to the time that the subject products, their component parts, and each accessory, left the possession of the defendants, and each of them, the subject products, their component parts and accessories, were defective, unsafe and unfit for their intended uses and for their reasonably foreseeable uses.

18. As a direct and legal result of the defective, unsafe, and unfit character of the subject products, their component parts and accessories, as aforesaid, at the time and place hereinabove set forth, the aforesaid Jeep Cherokee vehicle was caused to lose control, yaw, oversteer, overturn, rollover, and to sustain various failures and/or inadequate functioning of the components of the vehicle (including but not limited to the roof, roof support structure, glazing, restraints, etc.) which should have protected the occupants from injuries, thereby causing plaintiff SHELLEY R. ROBINSON to sustain severe and catastrophic injuries, including but not limited to quadriplegia.

19. As a direct and legal result of the aforesaid, plaintiff SHELLEY R. ROBINSON, was caused to sustain the injuries and damages set forth in paragraphs 13 through 15.

WHEREFORE, plaintiff SHELLEY R. ROBINSON prays judgment against said defendants, and each of them, as hereinafter set forth.

THIRD COUNT

(Breach of Warranty)

20. Plaintiff refers to the allegations of paragraphs 2 through 8 of this Complaint, and incorporates the same herein by reference as if fully set forth at this point.

21. Plaintiff is informed and believes, and thereon alleges, that at all times herein mentioned, on and prior to the sale of the subject products, and each of their component parts, and each accessory, and continuing thereafter, defendants, and each of them, through advertising media urging the purchase, rental and/or use of the subject products, each of their component parts, and each accessory, and otherwise, expressly warranted and represented, and otherwise impliedly warranted and represented, to members of the general public, including all persons who would foreseeably use or be in the vicinity of use of the subject products, including the driver of the subject Jeep Cherokee vehicle, and including plaintiff SHELLEY R. ROBINSON, that their products, including the subject products, each of their component parts, and each accessory, were and was effective, proper, free from defects, and in all respects safe and fit for their intended and reasonably foreseeable uses, free from defects in design, workmanship, instructions, and materials, and of merchantable quality.

22. Plaintiff is informed and believes, and thereon alleges, that plaintiff SHELLEY R. ROBINSON and the owners and operators of said vehicle, in the purchase and use of the subject products, each of their component parts, and each accessory, did justifiably rely on said warranties and warranty representations, and further did rely upon the skill and judgment of defendants, and each of them, to select and furnish equipment, including

1 options, components, systems, and accessories, which was in all respects safe and fit for
2 the purpose for which it was to be used and would foreseeably be used.

3 23. Said express and implied warranties and warranty representations were untrue and
4 breached by defendants, and each of them, in that the subject products, certain of their
5 component parts, and certain of their accessories, were not of merchantable quality, were
6 not free of defects in design, workmanship and materials, were not safe and reasonably
7 fit for their intended and reasonably foreseeable uses, but instead were defective, unfit
8 and unsafe for their intended and reasonably foreseeable uses.

9
10 24. As a direct and legal result of the breach of express and implied warranties and warranty
11 representations by defendants, and each of them, and of the defective, unsafe, and unfit
12 character of the subject products, their component parts, and accessories, as aforesaid, at
13 the time and place hereinabove set forth, the aforesaid Jeep Cherokee vehicle was caused
14 to lose control, yaw, oversteer, overturn, rollover, and to sustain various failures and/or
15 inadequate functioning of the components of the vehicle (including but not limited to the
16 roof, roof support structure, glazing, restraints, etc.) which should have protected the
17 occupants from injuries, thereby causing plaintiff SHELLEY R. ROBINSON to sustain
18 severe and catastrophic injuries, including but not limited to quadriplegia.

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21 25. As a direct and legal result of the aforesaid, plaintiff SHELLEY R. ROBINSON, was
22 caused to sustain the injuries and damages set forth in paragraphs 13 through 15.

23 WHEREFORE, plaintiff SHELLEY R. ROBINSON prays judgment against said
24 defendants, and each of them, as hereinafter set forth.
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SECOND CAUSE OF ACTION

Plaintiff ELIZAVETA M. HUNSINGER, by and through her Conservator IVAN J. HUNSINGER, complains of defendants DAIMLERCHRYSLER AG; DAIMLERCHRYSLER MOTORS COMPANY LLC; DAIMLERCHRYSLER CORPORATION; and DOES ONE through THIRTY, and each of them, as follows:

FIRST COUNT

(Negligence)

26. Plaintiff refers to the allegations of paragraphs 1 through 8 of this Complaint, and incorporates the same herein by reference as if fully set forth at this point.
27. At all times material hereto, defendants, and each of them, knew, or in the exercise of reasonable care should have known, that said vehicles, their component parts and accessories, including the subject products, were of such a nature that if not properly designed, manufactured, remanufactured, reconditioned, converted, packaged, distributed, tested, constructed, selected, assembled, installed, fabricated, analyzed, marketed, recommended, serviced, repaired, maintained, warranted, merchandised, advertised, promoted, leased, rented, sold, configured, accessorized, and described with appropriate warnings and instructions concerning the proper operation, accessory and/or component configuration, installation, use, care, repair, service, and maintenance, they would be likely to become unreasonably dangerous, defective, unsafe, and unfit for the uses for which and the manner in which they were intended to be used and would foreseeably be used, and would thereby be likely to injure the person or persons by whom, or in the vicinity of whom, they would foreseeably be used; in consequence

1 thereof, at all times material hereto, defendants, and each of them, had a duty to anticipate
2 the foreseeable uses and conditions of use of said vehicles and said subject products,
3 including but not limited to the transportation of both persons and cargo both over the
4 public streets and highways and the potential for involvement of same in accidents and
5 collisions; in further consequence thereof, defendants, and each of them, had a duty to
6 exercise and use reasonable care to properly design, manufacture, remanufacture,
7 recondition, convert, package, distribute, test, construct, select, assemble, install,
8 fabricate, analyze, market, recommend, service, accessorize, configure, maintain, repair,
9 warrant, merchandise, advertise, promote, lease, rent, sell, and provide adequate warning
10 and instruction concerning the proper installation, operation, accessory and/or component
11 configuration, maintenance, service, repair, care, and use of said vehicles, their
12 component parts and accessories, including the subject products, such that the same
13 would be reasonably safe for the uses, the conditions of use, and manner of use for which
14 they were intended to be used and would foreseeably be used.

- 17 28. On a date or dates prior to May 25, 2005, the defendants, and each of them, so negligently
18 and carelessly designed, manufactured, remanufactured, reconditioned, converted,
19 packaged, distributed, tested, constructed, selected, assembled, accessorized, configured,
20 installed, fabricated, analyzed, marketed, recommended, serviced, maintained, repaired,
21 warranted, merchandised, advertised, promoted, leased, rented, sold, labeled, or failed to
22 label, provided inadequate, or failed to provide adequate instructions and warnings
23 concerning the proper installation, operation, accessory and/or component configuration,
24 use, care, service, repair and maintenance of, the subject products, the component parts
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1 thereof, and the accessories therefor, such that the same were rendered unreasonably
2 dangerous, defective, unsafe and unfit for the uses for which, the conditions under which,
3 and the manner in which it and they were intended to be used and would foreseeably be
4 used; that furthermore the unreasonably dangerous, defective, unsafe and unfit character
5 of the subject products, the component parts and accessories thereof, and the fact that they
6 were unreasonably dangerous, unsafe, defective, and unfit for the purposes for which, the
7 manner in which, and the conditions under which they were intended to be used when
8 used as recommended by, and/or foreseeable to defendants, and each of them, was known
9 to the defendants, and each of them, or in the exercise of reasonable care should have
10 been discovered and known by defendants, and each of them; that furthermore the
11 unreasonably dangerous, defective, unsafe and unfit character of the subject products and
12 the component parts thereof was not made known to the users thereof, including plaintiff.

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15 29. As a direct and legal result of the negligence and carelessness of the defendants, and each
16 of them, and of the dangerous, defective, unsafe, and unfit character of the subject
17 products, their component parts and accessories, as aforesaid, at the time and place
18 hereinabove set forth, the aforesaid Jeep Cherokee vehicle was caused to lose control,
19 yaw, oversteer, overturn, rollover, and to sustain various failures and/or inadequate
20 functioning of the components of the vehicle (including but not limited to the roof, roof
21 support structure, glazing, restraints, etc.) which should have protected the occupants
22 from injuries, thereby causing plaintiff ELIZAVETA M. HUNSINGER to sustain severe
23 and catastrophic injuries, including but not limited to quadriplegia and traumatic brain
24 injury.
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1 30. As a direct and legal result of the aforesaid, plaintiff ELIZAVETA M. HUNSINGER,
2 was caused to sustain severe and permanent injuries and was injured in her health,
3 strength and activity, sustaining injury to her body and shock and injury to her nervous
4 system and person, all of which have caused and continue to cause plaintiff great mental,
5 physical and nervous pain and suffering. Plaintiff is informed and believes, and on such
6 information and belief alleges, that said injuries will result in severe permanent disability
7 to plaintiff. By reason of the foregoing, plaintiff has sustained general damages in a sum
8 which is greater than the minimum jurisdiction of this Court.
9

10 31. As a direct and legal result of the aforesaid, and the injuries thereby caused to her,
11 plaintiff ELIZAVETA M. HUNSINGER has been, and in the future, will be required to
12 obtain the services of physicians and other health care practitioners and to incur other
13 medical expenses. At this time, plaintiff does not know the reasonable value of said
14 services and expenses, but will ask leave to insert the same in her complaint when the
15 same has been ascertained or upon proof thereof at trial.
16

17 32. As a direct and legal result of the aforesaid, and the injuries thereby caused to her,
18 plaintiff ELIZAVETA M. HUNSINGER has sustained injury and damage to her earnings
19 and/or earning capacity, and plaintiff is informed and believes, and thereon alleges, that
20 she will continue to sustain such damage in the future, all to her further damage in an
21 amount presently unknown, wherefore plaintiff will pray leave to amend this complaint to
22 insert the amount of said damage when the same has been ascertained, or upon proof
23 thereof at trial.
24

25 WHEREFORE, plaintiff ELIZAVETA M. HUNSINGER prays judgment against said
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1 defendants, and each of them, as hereinafter set forth.

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3 SECOND COUNT

4 (Strict Liability)

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6 33. Plaintiff refers to the allegations of paragraphs 1 through 8 of this Complaint, and
7 incorporates the same herein by reference as if fully set forth at this point.

8 34. At the time of manufacture, and at all times thereafter, including but not limited to the
9 time that the subject products, their component parts, and each accessory, left the
10 possession of the defendants, and each of them, the subject products, their component
11 parts and accessories, were defective, unsafe and unfit for their intended uses and for their
12 reasonably foreseeable uses.

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14 35. As a direct and legal result of the defective, unsafe, and unfit character of the subject
15 products, their component parts and accessories, as aforesaid, at the time and place
16 hereinabove set forth, the aforesaid Jeep Cherokee vehicle was caused to lose control,
17 yaw, oversteer, overturn, rollover, and to sustain various failures and/or inadequate
18 functioning of the components of the vehicle (including but not limited to the roof, roof
19 support structure, glazing, restraints, etc.) which should have protected the occupants
20 from injuries, thereby causing plaintiff ELIZAVETA M. HUNSINGER to sustain severe
21 and catastrophic injuries, including but not limited to quadriplegia and traumatic brain
22 injury.

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24 36. As a direct and legal result of the aforesaid, plaintiff ELIZAVETA M. HUNSINGER,
25 was caused to sustain the injuries and damages set forth in paragraphs 30 through 32.
26

1 WHEREFORE, plaintiff ELIZAVETA M. HUNSINGER prays judgment against said
2 defendants, and each of them, as hereinafter set forth.
3

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5 THIRD COUNT

6 (Breach of Warranty)

7 37. Plaintiff refers to the allegations of paragraphs 1 through 8 of this Complaint, and
8 incorporates the same herein by reference as if fully set forth at this point.

9 38. Plaintiff is informed and believes, and thereon alleges, that at all times herein mentioned,
10 on and prior to the sale of the subject products, and each of their component parts, and
11 each accessory, and continuing thereafter, defendants, and each of them, through
12 advertising media urging the purchase, rental and/or use of the subject products, each of
13 their component parts, and each accessory, and otherwise, expressly warranted and
14 represented, and otherwise impliedly warranted and represented, to members of the
15 general public, including all persons who would foreseeably use or be in the vicinity of
16 use of the subject products, including the driver of the subject Jeep Cherokee vehicle, and
17 including plaintiff ELIZAVETA M. HUNSINGER, that their products, including the
18 subject products, each of their component parts, and each accessory, were and was
19 effective, proper, free from defects, and in all respects safe and fit for their intended and
20 reasonably foreseeable uses, free from defects in design, workmanship, instructions, and
21 materials, and of merchantable quality.
22

23
24 39. Plaintiff is informed and believes, and thereon alleges, that plaintiff ELIZAVETA M.
25 HUNSINGER and the owners and operators of said vehicle, in the purchase and use of
26

1 the subject products, each of their component parts, and each accessory, did justifiably
2 rely on said warranties and warranty representations, and further did rely upon the skill
3 and judgment of defendants, and each of them, to select and furnish equipment, including
4 options, components, systems, and accessories, which was in all respects safe and fit for
5 the purpose for which it was to be used and would foreseeably be used.
6

7 40. Said express and implied warranties and warranty representations were untrue and
8 breached by defendants, and each of them, in that the subject products, certain of their
9 component parts, and certain of their accessories, were not of merchantable quality, were
10 not free of defects in design, workmanship and materials, were not safe and reasonably fit
11 for their intended and reasonably foreseeable uses, but instead were defective, unfit and
12 unsafe for their intended and reasonably foreseeable uses.
13

14 41. As a direct and legal result of the breach of express and implied warranties and warranty
15 representations by defendants, and each of them, and of the defective, unsafe, and unfit
16 character of the subject products, their component parts, and accessories, as aforesaid, at
17 the time and place hereinabove set forth, the aforesaid Jeep Cherokee vehicle was caused
18 to lose control, yaw, oversteer, overturn, rollover, and to sustain various failures and/or
19 inadequate functioning of the components of the vehicle (including but not limited to the
20 roof, roof support structure, glazing, restraints, etc.) which should have protected the
21 occupants from injuries, thereby causing plaintiff ELIZAVETA M. HUNSINGER to
22 sustain severe and catastrophic injuries, including but not limited to quadriplegia and
23 traumatic brain injury.
24

25 42. As a direct and legal result of the aforesaid, plaintiff ELIZAVETA M. HUNSINGER,
26

1 was caused to sustain the injuries and damages set forth in paragraphs 30 through 32.

2 WHEREFORE, plaintiff ELIZAVETA M. HUNSINGER prays judgment against said
3 defendants, and each of them, as hereinafter set forth.
4

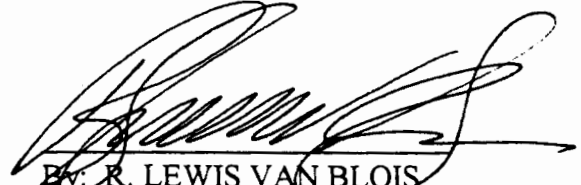
5
6 PRAYER FOR RELIEF

7 WHEREFORE, plaintiffs, and each of them, pray judgment against defendants, and each
8 of them, as follows:

- 9 1. For general damages in an amount which is greater than the minimum jurisdiction
10 of this Court.
11
12 2. All past and future medical and incidental expenses, according to proof.
13
14 3. All past and future loss of earnings, according to proof.
15
16 4. Prejudgment interest at ten percent (10%) per annum, pursuant to the provisions
17 of Civil Code, Sections 3288 and 3291, or either of them.
18
19 5. For costs of suit herein incurred.
20
21 6. Such other and further relief as this Court may deem proper.

22 Dated: May 9, 2007

VAN BLOIS & ASSOCIATES

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24 By: R. LEWIS VAN BLOIS
25 Attorneys for Plaintiff
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